

**CITY OF DEXTER
ZONING BOARD OF APPEALS
REGULAR MEETING
Monday, September 19, 2022
7:00 pm**

AGENDA

A. CALL TO ORDER

The meeting was called to order at 7:05 pm.

B. ROLL CALL:

K. Becker C. Hill S. Arab P. Mekas c. Wallaker

Also Present: Michelle Aniol, Community Development Manager and Grace Whitney, Associate Planner

C. APPROVAL OF MINUTES

1. August 18, 2022 Meeting Minutes

Moved Arab; seconded Becker to approve the August 18, 2022 meeting minutes as presented.

Ayes: Hill, Arab, Becker, Mekas, Wallaker

Nays: None

Motion carries

D. APPROVAL OF THE AGENDA

Moved Hill; seconded Mekas to approve the agenda as presented

Ayes: Hill, Arab, Becker, Mekas, Wallaker

Nays: None

Motion carries

E. STAFF REPORT

Ms. Aniol reported to the ZBA that the DDA voted to recommend executing a development agreement for 3045 Broad St. to City Council.

F. SITE INSPECTION (CONDUCT ON OWN)

G. CONFLICT OF INTEREST/EX PARTE DISCLOSURE

Mr. Hill questioned if he should recuse himself because he is a friend of the applicant. The board agreed that there was no possible financial gain in being an applicant's friend and felt that Mr. Hill would still be able to provide impartial judgement on the case.

H. PUBLIC HEARINGS

1. **AP2022.23-03 ZBA 3458 Broad St.** Public hearing to consider the following variance request:

Applicant: Mr. Henry Rolfes, owner of the above property

Request: 6.5-foot variance from the 10-foot setback between a detached and principal structure as required by section 3.02 of the City of Dexter Zoning Ordinance

Ms. Whitney presented the case to the ZBA and summarized her review findings. She read written comments provided to the ZBA by Mr. Rolfes' next-door neighbors, Paul and Jennifer Underwood. Mr. and Mrs. Underwood opposed the variance because they believed the garage addition to the rear of the structure would block the light to windows at the side of their house and may negatively affect drainage patterns.

Mr. Wallaker asked staff to clarify whether or not a nonconforming structure is allowed to be expanded.

Ms. Aniol clarified that the expansion is within the ZBA's jurisdiction based on the City's ordinance and the Zoning Enabling Act. She stated that some municipalities do not write their ordinances this way, but Dexter's gives clear guidelines for expanding a nonconformity.

Ms. Becker asked if the lot goes all the way back to the alley.

Ms. Aniol responded that the lot to the east wraps around the site to the south lot line as well and the applicant's property does not extend to the alley.

Mr. Rolfes addressed the ZBA. He explained that there is a difference of 9 or 10ft in elevation from the street to the back of the lot. Putting a structure in this low area would result in flooding. The backyard takes water from all of the neighboring lots. When he bought the house, the garage was larger than it currently is. The back section was unsafe and he removed it. He would like an addition to the back to have room for a car and to help facilitate a staircase to the backyard patio for safer access. He detailed the extensive process it would take to relocate the garage to a different location on the lot. Mr. Rolfes believes the neighbor's windows would not be shaded more than they already are and that the drainage would not be impacted because the steep grade change would still be present.

Ms. Aniol asked Mr. Rolfes what the cleanout on the survey means. He clarified that there are not city water or sewer lines in this location. He believes it was once used to direct water on the lot and there could be a possible cistern. He also stated that when they had purchased the home, he had the existing well capped.

Chairman Wallaker opened the public hearing at 7:26 pm. The public hearing was closed at 7:27pm

Mr. Hill stated that after listening to the presentations he felt more uncomfortable voting on this case. He has done some work on the property for the applicant years ago. The ZBA felt that because this constituted a direct financial link between Mr. Hill and the applicant, it would be appropriate to consider recusing him.

Moved Wallaker, seconded Becker to recuse Mr. Hill from this case.

Ayes: Arab, Becker, Mekas, Wallaker

Nays: None

Abstaining: Hill

Motion carries

Ms. Arab asked the applicant if he has had any conversations with his neighbors considering their opposition. Mr. Rolfes said that they have spoken about the project and they did not as clearly express these concerns to him.

Ms. Becker asked if there was any room for compromise with the neighbors. Mr. Rolfes stated that the reason for building the addition to the back, rather than the front is because of the design of the staircase and that it gives his patio area more privacy. Without the addition at the back, he will likely build a fence on the property line for privacy.

Mr. Mekas stated that he has served on the ZBA for a long time. In his tenure, the ZBA has taken objections from neighbors seriously. Although there is no precedent that should be considered, they have leaned towards not approving expanding nonconformities if it would negatively affect the neighbors because this would impact the board's ability to provide neighbors with substantial justice.

Ms. Becker asked staff to clarify the extent of the fire wall that would be required. Ms. Aniol stated that the building department would at least require the addition and the existing structure to be fire rated on the wall facing the home.

Mr. Mekas questioned the degree of practical difficulty and what level of difficulty qualifies as unnecessarily burdensome. Ms. Aniol provided the ZBA with additional information about the different locations a garage could be built. The topography and utility poles would require a great deal of money to overcome. Ms. Whitney added that an attached garage on that side of the house would eliminate the need for a variance but would reduce the width of the garage by over 2 ft.

Mr. Mekas discussed with the board that he did not feel they could provide substantial justice to the neighbor by granting the variance as presented and asked the applicant if he would be willing to make the addition to the front of the garage instead. Mr. Rolfes stated that he would be open to the possibility depending on the design work if that was his only option for expansion. The board asked about their options. Ms. Aniol let the board know that they could table the request and ask for more information, approve an addition with the condition it be built at the front or deny the application. A denial would require the applicant to wait 12 months to reapply for the same variance unless the application was significantly different.

Moved Mekas; seconded Arab:

Based on the information provided by the applicant and staff at the September 19, 2022 Zoning Board of Appeals meeting, the Board determines that application, AP2022-23-03 ZBA: Accessory Structure Setback Variance Request, submitted by Henry Rolfes, for property located at 3458 Broad Street (08-08-06-107-003), **MEETS** the criteria required for the considering a variance request, pursuant to Section 24.06, sub-section A.

Therefore, let it be resolved the Zoning Board of Appeals **GRANTS** the following variances from Section 3.02:

A 6.5-foot variance from the required 10-foot setback between principal and accessory structures for the construction of a garage addition, provided that:

1. The addition is located the front rather than rear of the garage
2. The addition and the existing structure are built to the fire rating standards of the building code.

The determination was made based on the following findings, per Section 24.06(A), of the City of Dexter Zoning Ordinance (list criteria):

1. The standard of Practical Difficulties is met due to topography of the site and the existing utility pole making locating the garage anywhere else on the lot burdensome.
2. The standard of Substantial Justice is met because the applicant will be allowed to expand their garage without negatively impacting the neighboring property owner.
3. There are no concerns regarding Public Safety and Welfare.
4. The standard of Extraordinary Circumstances is met because the location of the existing house and garage were not of the owner or applicant's creation
5. The request will not create a safety hazard or nuisance based on Captain Dettling's report on building code requirements for a firewall.
6. The request will not change or negatively alter the essential character of the neighborhood if the addition is located at the front of the garage.

Ayes: Arab, Becker, Mekas, Wallaker

Nays: None

Abstaining: Hill

Motion carries

I. OTHER BUSINESS

None

J. ADJOURNMENT

Moved Mekas support Wallaker to adjourn the meeting at 8:19 pm.

Unanimous voice vote approval

Respectfully submitted,

Grace Whitney
Associate Planner

Approved for filing: _____